

Assembly Bill No. 171

Passed the Assembly August 31, 2009

Chief Clerk of the Assembly

Passed the Senate August 27, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 654.3 to the Business and Professions Code, and to add Section 1395.7 to the Health and Safety Code, relating to dental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 171, Jones. Dental services: credit.

Existing law prohibits a healing arts licensee, including physicians and surgeons, psychologists, acupuncturists, optometrists, dentists, podiatrists, and chiropractic practitioners, from referring a person for certain health care services if the licensee has a financial interest, as defined, with the person or entity that receives the referral. Existing law provides specified exemptions from this prohibition. Under existing law, a violation of the provisions governing referrals is a crime.

This bill would prohibit a dentist, or an employee or agent of that dentist, from arranging for or establishing credit extended by a 3rd party for a patient without first providing a written notice and a written treatment plan, as specified, and would prohibit that arrangement or establishment of credit with regard to a patient who has been administered or is under the influence of general anesthesia, conscious sedation, or nitrous oxide. The bill would prohibit a dentist, or employee or agent of a dentist, from charging treatment not yet rendered or costs not yet incurred to an open-end credit extended by a 3rd party that is arranged for or established in the dental office without first providing the patient with specified information regarding the treatment and services to be rendered and ensuring the patient's receipt of the treatment plan. The bill would require a dentist to refund to the lender any payment received through credit extended by a third party, as specified, for treatment that has not been rendered or costs that have not been incurred within 15 business days of the patient's request. The bill would subject a person who willfully violates these provisions to specified civil liability. Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime.

This bill would require a staff-model dental health care service plan, as defined, that arranges for or establishes credit extended by a 3rd party to establish and comply with policies and procedures that ensure compliance with the bill's provisions and to establish and comply with policies and procedures that ensure that, within 15 business days of an enrollee's request, the plan refunds to a lender any payment received through that credit for treatment that has not been rendered or costs that have not been incurred. The bill would also require a staff-model dental health care service plan that directly extends credit or establishes a payment plan to establish and comply with policies and procedures that ensure that, within 15 business days of an enrollee's request, the plan refunds to the enrollee any payment received through that credit or payment plan for treatment that has not been rendered or costs that have not been incurred.

Because a willful violation of these requirements would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 654.3 is added to the Business and Professions Code, to read:

654.3. (a) A dentist, or an employee or agent of a dentist, shall not charge treatment or costs to an open-end credit, that is extended by a third party and that is arranged for or established in a dental office, before the date upon which the treatment is rendered or costs are incurred, without first providing the patient a list of the treatment and services to be rendered, the estimated costs of the treatment and services, and which treatment and services are being charged in advance of rendering or incurring of costs, and ensuring

that the patient has received the treatment plan required by subdivision (d).

(b) A dentist shall, within 15 business days of a patient's request, refund to the lender any payment received through a credit extended by a third party that is arranged for or established in a dental office for treatment that has not been rendered or costs that have not been incurred.

(c) A dentist, or an employee or agent of that dentist, shall not arrange for or establish credit extended by a third party for a patient without first providing the following written notice, on one page in at least 14-point type, and obtaining a signature from the patient:

“Credit for Dental Services

The attached application and information is for a credit card/line of credit or loan to help you finance your dental treatment. You should know that:

You are applying for a _____ credit card/line of credit or a _____ loan for \$_____.

You do not have to apply for the credit card/line of credit or loan. You may pay your dentist for dental treatment in another manner.

This credit card/line of credit or loan is not a payment plan with the dental office; it is credit with [name of company issuing the credit card/line of credit or loan]. Your dentist does not work for this company.

Before applying for this credit card/line of credit or loan, you have the right to a written treatment plan from your dentist that includes the anticipated treatment to be provided and the estimated costs of each service.

If you are approved for a credit card/line of credit, your dentist can only charge treatment and lab costs to that credit card/line of credit when you get the treatment or the dentist incurs costs unless your dentist has first given you a list of treatments that you are paying for in advance and the cost for each treatment or service.

You have the right to receive a credit to your credit card/line of credit or loan account refunded for any costs charged to the credit card/line of credit or loan for treatment that has not been rendered or costs that your dentist has not incurred. Your dentist must refund the amount of the charges to the lender within 15 business days of your request, after which the lender will credit your account.

Please read carefully the terms and conditions of this credit card/line of credit or loan, including any promotional offers.

You may be required to pay interest on the amount charged to the credit card/line of credit or the amount of the loan. If you miss a payment or do not pay on time, you may have to pay a penalty and/or a higher interest rate.

If you do not pay the money that you owe the company that provides you with a credit card/line of credit or loan, your missed payments can appear on your credit report and could hurt your credit rating. You could also be sued.

[Patient's Signature]"

(d) A dentist shall give a patient a written treatment plan prior to arranging for or establishing credit extended by a third party. The treatment plan shall include each anticipated service to be provided and the estimated cost of each service. If a patient is covered by a private or government dental benefit plan or dental insurance, from which the dentist takes assignment of benefits, the treatment plan shall indicate the patient's private or government-estimated share of cost for each service. If the dentist does not take assignment of benefits from a patient's dental benefit plan or insurance, the treatment plan shall indicate that the treatment may or may not be covered by a patient's dental benefit or insurance plan, and that the patient has the right to confirm dental benefit or insurance information from the patient's plan, insurer, or employer before beginning treatment.

(e) A dentist, or an employee or agent of that dentist, shall not arrange for or establish credit extended by a third party for a patient with whom the dentist, or an employee or agent of that dentist, communicates primarily in a language other than English that is one of the Medi-Cal threshold languages, unless the written notice information required by subdivision (c) is also provided in that language.

(f) A dentist, or an employee or agent of that dentist, shall not arrange for or establish credit that is extended by a third party for a patient who has been administered or is under the influence of general anesthesia, conscious sedation, or nitrous oxide.

(g) A patient who suffers any damage as a result of the use or employment by any person of a method, act, or practice that willfully violates this section may seek the relief provided by

Chapter 4 (commencing with Section 1780) of Title 1.5 of Part 4 of Division 3 of the Civil Code.

(h) The rights, remedies, and penalties established by this article are cumulative, and shall not supersede the rights, remedies, or penalties established under other laws.

(i) For purposes of this section, the following definitions shall apply:

(1) “Dentist” includes, but is not limited to, a dental corporation, as defined in Section 1800.

(2) “Open-end credit” means credit extended by a creditor under a plan in which the creditor reasonably contemplates repeated transactions, the creditor may impose a finance charge from time to time on an outstanding unpaid balance, and the amount of credit that may be extended to the debtor during the term of the plan (up to any limit set by the creditor) is generally made available to the extent that any outstanding balance is repaid.

(3) “Patient” includes, but is not limited to, the patient’s parent or other legal representative.

SEC. 2. Section 1395.7 is added to the Health and Safety Code, to read:

1395.7. (a) A staff-model dental health care service plan that arranges for or establishes credit extended by a third party shall establish and comply with policies and procedures that ensure that its dentists, employees, and agents, and employees or agents of its dentists, comply with Section 654.3 of the Business and Professions Code.

(b) A staff-model dental health care service plan that arranges for or establishes credit extended by a third party shall establish and comply with policies and procedures that ensure that, within 15 business days of an enrollee’s request, the plan refunds to a lender any payment received through that credit for treatment that has not been rendered or costs that have not been incurred.

(c) A staff-model dental health care service plan that directly extends credit or establishes a payment plan shall, at a minimum, establish and comply with policies and procedures that ensure that, within 15 business days of an enrollee’s request, the plan refunds to the enrollee any payment received through that credit or payment plan for treatment that has not been rendered or costs that have not been incurred.

(d) For purposes of this section, the following definitions shall apply:

(1) “Staff-model dental health care service plan” means a specialized health care service plan that contracts to provide coverage for dental care services and that retains dentists as employees to care for its enrollees.

(2) “Enrollee” includes, but is not limited to, an enrollee’s parent or other legal representative.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2009

Governor